

1 William P. Ramey, III (appearance *pro*
2 *hac vice*)
3 wramey@rameyfirm.com
4 RAMEY LLP
5 5020 Montrose Blvd., Suite 800
6 Houston, Texas 77006
7 Telephone: +1.713.426.3923
8 Facsimile: +1.832.689.9175

7 Susan S.Q. Kalra, Bar No. 167940
8 skalra@rameyfirm.com
9 Ramey LLP
10 5020 Montrose Blvd., Suite 800
11 Houston, Texas 77006
12 (800) 993-7499
13 (832) 900-4941 (facsimile)

12 Attorneys for Plaintiff
13 LAURI VALJAKKA

14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**
16 **OAKLAND DIVISION**

18 LAURI VALJAKKA,
19 Plaintiff,
20 v.
21 NETFLIX, INC.,
22 Defendant.

Case No. 4:22-cv-01490-JST

**PLAINTIFF VALJAKKA'S
MEMORANDUM OF LAW IN
OPPOSITION TO NETFLIX'S
MOTION FOR LEAVE TO AMEND
ITS ANSWER TO ADD A SINGLE
CUVTA COUNTERCLAIM**

Judge: Hon. Jon S. Tigar
Date: September 21, 2023
Time: 2:00 p.m.

Crtrm: 6 – 2nd Floor

26 Plaintiff Lauri Valjakka (“Valjakka”) files this memorandum of law in
27 opposition to Defendant Netflix, Inc.’s (“Netflix” or “Defendant”) Motion for
28

1 Leave to Amend Its Answer and in support thereof states as follows:

2 Defendant's motion for leave to amend its answer should be denied as the
3 proposed amended answer fails to allege a sufficient factual basis from which a
4 cognizable claim for a violation of the CUVTA could be found. Defendant's
5 proposed amended answer fails to allege that any transfer by Valjakka "puts beyond
6 [the creditor's] reach property [the creditor] otherwise would be able to subject to
7 the payment of [] debt." *Opperman v. Path, Inc.*, 87 F. Supp. 3d 1018 (N.D. Cal.
8 2014), citing *Mehrtash v. Mehrtash*, 93 Cal.App.4th 75, 80, 112 Cal.Rptr.2d 802
9 (2001). Without citing to any factual basis, Defendant's proposed amended answer
10 merely recites a bald legal conclusion that because of Valjakka's licenses to CDN
11 Licensing Finland Oy, "Netflix will have no ability to recover its cognizable,
12 actionable claim."¹

13 The CUVTA covers transactions to a third-party beneficiary, one whom the
14 creditor cannot enforce a judgment against for the same claim against the debtor.
15 The CUVTA says of the creditor's remedies, "In an action for relief against a
16 transfer or obligation under this chapter, a creditor, subject to the limitations in
17 Section 3439.08, may obtain: (1) Avoidance of the transfer or obligation to the
18 extent necessary to satisfy the creditor's claim." Cal. Civ. Code § 3439.07. This
19 protects creditors from debtors who seek to immunize themselves from liability by
20 transferring their assets to a third-party before or after a judgment is rendered
21 against them, leaving no reachable assets with which they can pay their debt.
22 Transfers that do not hinder or delay a creditor's ability to collect are not fraudulent
23 under the CUVTA. "A creditor cannot premise a UFTA claim on a transfer unless
24 the "the transfer puts beyond [the creditor's] reach property [the creditor] otherwise
25 would be able to subject to the payment of [] debt." *Opperman v. Path, Inc.*, 87 F.
26 Supp. 3d 1018 (N.D. Cal. 2014), citing *Mehrtash v. Mehrtash*, 93 Cal.App.4th 75,
27 80, 112 Cal.Rptr.2d 802 (2001).

28
¹ Dkt. 128-2 p. 34

California courts have consistently held that the CUVTA only applies to transactions between two separate parties. In *Lo v. Lee* the court said, “A fraudulent conveyance is a transfer by the debtor of property to a **third person** undertaken with the intent to **prevent a creditor from reaching that interest to satisfy its claim.**” [emphasis added]. *Lo v. Lee*, 24 Cal. App. 5th 1065, 234 Cal. Rptr. 3d 824 (2018), citing *Yaesu Electronics Corp. v. Tamura* 28 Cal.App.4th 8, 13, 33 Cal.Rptr.2d 283. (1994).

Defendant however misinterprets the CUVTA and attempts to apply it to a transfer by Valjakka “from himself to himself”. Defendant cites no California case wherein the CUVTA is successfully applied to prevent a Defendant from transferring assets either to itself, or to a corporation wholly owned by itself.

CONCLUSION

Because actual harm to the creditor is necessary to assert a CUVTA claim, Defendant has failed to assert any factual basis from which one could infer actual harm, and for the reasons laid out in Valjakka’s response to Defendant’s motion for a preliminary injunction filed concurrently, Defendant’s motion for leave to amend should be denied.

Dated: September 4, 2023

Respectfully submitted,

By: /s/ Susan S.Q. Kalra
 Susan S.Q. Kalra, Bar No. 167940
 skalra@rameyfirm.com
 Ramey LLP
 5020 Montrose Blvd., Suite 800
 Houston, Texas 77006
 (800) 993-7499
 (832) 900-4941 (facsimile)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

By: /s/ William P. Ramey, III
William P. Ramey, III (appearance *pro*
hac vice)
wramey@rameyfirm.com
RAMEY LLP
5020 Montrose Blvd., Suite 800
Houston, Texas 77006
Telephone: +1.713.426.3923
Facsimile: +1.832.689.9175

Attorney for Plaintiff
LAURI VALJAKKA